

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

JOHN KELLY,

Plaintiff,

v.

U.S. MARSHALS SERVICE, et al.,

Defendants,

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No. 1:16-CV-169 SNLJ

MEMORANDUM AND ORDER

Plaintiff moves the Court to reconsider its order dated August 29, 2016. The motion is granted in part and denied in part.

Plaintiff argues that the Court misconstrued his allegations against defendant Bob Holder, mistakenly dismissed defendant Nicole Green, and stated he did not sue defendants in their individual capacities. He is partially correct.

Plaintiff maintains that the Court mistakenly said Holder allowed him to wear a brace that the doctor recommended. The Court has reviewed the allegations and finds that he is correct. Therefore, Holder must respond to the allegation.

Plaintiff claims that the Court mistakenly dismissed Green because it found she was not directly responsible for his injuries. He argues that the Court should have reviewed his grievance, which Green denied. The Court disagrees. *See George v. Smith*, 507 F. 3d 605, 609 (7th Cir. 2007) (“Only persons who cause or participate in the [constitutional] violations are responsible. Ruling against a prisoner on an administrative complaint does not cause or contribute to the violation.”). Plaintiff’s allegations and grievance show that she attempted to get

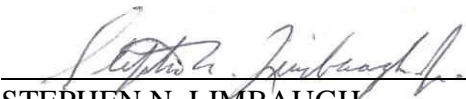
clearance for medical care. They do not show that she was deliberately indifferent to his medical needs. As a result, the Court will not reinstate Green.

Plaintiff says that the Court mistakenly said he did not sue defendants in their individual capacities. He is correct that he did sue them individually. However, the Court did not dismiss any of the defendants on this ground. So, plaintiff is not prejudiced by the Court's language.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for reconsideration [ECF No. 20] is **GRANTED** in part and **DENIED** in part, as is stated above.

Dated this 12th day of September, 2016.



STEPHEN N. LIMBAUGH
UNITED STATES DISTRICT JUDGE